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ABSTRACT

As of October 1995, 17 states had adopted charter-school legislation. The strength and scope of charter-school laws vary greatly among states. This report describes those state statutes, including the 1995 law passed by the Texas State Legislature. It describes specific provisions of the Texas law, including the home-rule district charter, campus charters, open-enrollment charter schools, and public education grants. Charter laws passed in 1995 by the states of Louisiana, Alaska, Arkansas, Rhode Island, and Wyoming are described. The report briefly describes the status of charter schools in states with older charter laws--California, Colorado, Minnesota, New Mexico, Wisconsin, Georgia, Massachusetts, Michigan, Kansas, and Hawaii. The relative new charter law in Arizona (1994) is also described. A chart summarizing state charter-school legislation and a list of state contacts are included. (LMI)

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CHARTER SCHOOLS: EXPERIMENTS IN REFORM

AN UPDATE

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INTRODUCTION

The charter school concept has, in recent years, gained widespread attention as a possible solution to many of the problems facing our nation's public school system. While by no means a panacea, the concept does offer flexibility and choice for educators, parents, and students. It also ensures a strengthened commitment to effective teaching and learning by making charter school funding and autonomy contingent upon gains in student performance. These and other appealing aspects of the charter school concept have led to the adoption of charter laws in many states over the past five years. This year alone, Texas, along with Alaska, Arkansas, Louisiana, Wyoming, and Rhode Island, joined the ranks of eleven other charter law states by enacting their own charter legislation.

While all share features basic to the charter concept, no two laws are identical. Among the states, there is a great deal of variation in the strength and scope of charter legislation, as well as in specific provisions, such as who can grant or seek charters. The recently enacted charter statutes are no exception.

CHARTERS AND PUBLIC CHOICE IN TEXAS

Some national policy experts believe Texas went "the next step" in comparison to other states when the Legislature passed its charter law during the 1995 session. Not only does the law empower parents, teachers and non-profit or governmental entities to establish charter schools, but home-rule district charters allow communities to map their own course for the total operation of school districts.

Citizens and educators are given broad flexibility under each type of charter to control schools locally. Only a handful of state laws apply to charter schools and home-rule districts and many of those relate to the management, financial accounting and funding of the education enterprise. In addition, charter schools are exempt from the instructional and academic rules and policies of the local school board.

While the law establishes procedures for revoking a charter, a campus or district retains a charter generally if student academic performance is satisfactory and terms of the charter contract are met. The law also provides a process for the voters of a district to rescind a home-rule district charter.

Parents are provided additional choice in seeking the best education available for their children. Parents of students assigned to academically deficient and low performing campuses can opt to send their child to any public school. State and local funds from the resident district are given to the student as a public education grant to pay tuition at the

new school.

Home Rule District Charter

The appointment of a charter commission to frame a school district charter is triggered by a petition signed by five percent of the registered voters in the district or by a resolution adopted by two-thirds of the local school board. A charter commission is composed of 15 residents of the district that reflect the ethnic, racial, socioeconomic and geographic diversity of the district. Over half of the commission members must have children in district schools and 25 percent must be classroom teachers. The commission has one year to develop and propose a charter. There is no limit on the number of districts that may convert to home-rule status.

Home-rule charters can alter the current governing structure of a school district. However, changes are subject to U.S. Department of Justice or court pre-clearance under the federal Voting Rights Act.

In addition to specifying the governance structure of the district and campuses, every charter must describe the district educational program, the process for adopting an annual budget, the procedures for auditing the finances and programs of the district, and additional conditions that would cause probation or revocation of the charter other than unacceptable student academic performance.

Charters and amendments to charters must be approved by a majority of voters at an election. At least 25 percent of the registered voters in a district must cast ballots in the election for the charter to be valid. Amendments to charters require a minimum voter turnout of 20 percent.

Home-rule school districts are subject to a limited number of state laws and rules. Residents of home-rule districts are free to establish local policies regarding curriculum and instruction, textbook selection, teacher contracts, pay and benefits, and discipline and school safety. Federal laws and court orders, including those related to bilingual and special education are not effected by state action. Law establishing criminal offenses apply to all school districts and campuses.

Many of the remaining state laws that apply to these districts provide uniform requirements for school district management, such as purchasing, student health and safety, criminal history checks on school employees, accounting and reporting, and district financing and bond requirements. Home-rule districts must adhere to other state laws relating to:

- educator certification;
- student admissions and attendance;
- 22:1 student to teacher ratio limit in grades kindergarten through four *on low performing campuses only*;
- high school graduation;
- prekindergarten, bilingual and special education programs;
- no-pass, no-play; and
- student testing and school district accountability.

The State Board of Education can place a home-rule district on probation or revoke its charter for poor student academic performance or other charter violations, failing to comply with applicable federal and state laws, or inadequate district fiscal management. Voters in a home-rule district can elect to rescind a charter. A rescission election is prompted by a petition of five percent of the voters of the district or a resolution of two-thirds of the local school board. A charter can be rescinded by a majority vote but a minimum voter turnout of 25 percent of the registered voters of the district is required.

Campus Charters

The local school board is authorized to grant a charter to parents and teachers for an entire campus or for a program on a campus. A petition of a majority of the teachers and parents of students at a school campus is required but does not automatically trigger approval of the charter by the school board. There is no limit on the number of campus charters allowed.

Charter campuses are exempt from most non-management state laws except for those related to:

- high school graduation;
- prekindergarten, bilingual and special education programs;
- no-pass, no-play; and
- student testing and campus accountability.

Charters must describe the campus educational program, the procedures for auditing the finances and programs of the campus, and additional conditions that would cause probation or revocation of the charter other than unacceptable student academic performance. The charter also must describe eligibility criteria for admission to the charter school that does not discriminate on the basis of ethnicity, race, religion or disability. However, priority can be given to students living in the school's attendance zone. Secondary criteria can include a student's age, grade level or academic credentials.

Campus charters can be revised if a majority of the parents and teachers at the campus petition for the change and it is approved by a majority of the school board. A school board can place a charter campus on probation or revoke its charter for poor student academic performance or other charter violations, failing to comply with applicable federal and state laws, or inadequate campus fiscal management.

Open-Enrollment Charter Schools

The State Board of Education can grant up to 20 charters for open-enrollment charter schools. These schools can be operated in school district or non-school district facilities by public or private higher education institutions, non-profit organizations, or governmental entities.

Open-enrollment charter schools are exempt from the same state laws as charter campuses.

These schools continue to be a part of the state public school system. Employees of open-enrollment schools are members of the Teacher Retirement System of Texas and are immune from liability to the same extent as other school employees.

Open-enrollment charter schools are entitled to the same amount of state and local funding that would be spent on a student by the student's district of residence. State funds are paid directly from the state to the school. Local funds from the student's resident district come to the school as payment for tuition. Open-enrollment charter schools are prohibited from charging students additional tuition.

Transportation must be provided by an open-enrollment charter school for all students eligible for transportation services.

As with a campus charter granted by a local school board, an open-enrollment school charter must outline the school's educational program, identify student performance targets for continuation or renewal of the charter, identify the school's governance structure, and establish an admission policy. The admission policy cannot discriminate on the basis of sex, national origin, ethnicity, religion, disability, academic or athletic ability. The schools

can deny admission for students with a criminal record or documented discipline problems.

The State Board of Education can approve revisions of a charter upon request by the open-enrollment charter school. The board is authorized to modify, place on probation, revoke, or deny renewal of a charter because of poor student academic performance or other charter violations.

The State Board is required to contract with an independent organization to conduct an annual evaluation of open-enrollment charter schools. This evaluation must look at student grades, test scores, and attendance, incidents involving student discipline, parents' and students' satisfaction with the school, costs of instruction, administration and transportation at the school, and the effect of open-enrollment schools on school districts.

Public Education Grants

Parents of students in under-performing schools now have the option to receive a public education grant to send their children to schools in any district in the state. Students are eligible for a grant if they are assigned to attend a school that had 50 percent or more of its students failing a Texas Assessment of Academic Skills (TAAS) test for the last three years or was rated low-performing under the state's accountability system any time in the preceding three years.

Based on TAAS testing and accountability ratings for 1993, 1994 and 1995, students in 1,010 of the state's 6,343 schools would be eligible to receive grants for the 1995-1996 school year.

The grant is the total state and local funding per student for the school district in which the student resides. The receiving district is prohibited from charging additional tuition for these students. The resident district is required to provide transportation for a grant student to and from the school the student would have attended.

A school district can accept or reject the application of a public education grant student to attend school in that district. However, the application criteria adopted by a school district cannot discriminate on the basis of a student's race, ethnicity, academic achievement, athletic abilities, language proficiency, sex, or socioeconomic status. If a district has more acceptable applications than available positions, the district is required to give preference to students who are at risk of dropping out of school and to public education grant students already enrolled in the district and their siblings. All other positions must be filled by lottery.

NEW CHARTER LAWS IN OTHER STATES

New legislation in **Louisiana** establishes "Charter School Demonstration Programs". City or parish school systems may apply to the State Board of Elementary and Secondary Education for authority to grant charters within their boundaries. Eight systems are allowed to participate, and within each there must be at least one charter school. After this, the number of charter schools is limited to no more than one for every 20,000 pupils in the system.

Charter schools may be proposed and sponsored by local groups (community-based) or by the local school board (board-based). Groups allowed to propose a charter include teachers, 10 or more citizens, public service organizations, business or corporate entities, and state colleges or universities, so long as each includes at least three state-certified teachers. Conversion of an existing school to a charter school must have the approval of at least two-thirds of the faculty and staff at the school and at least two-thirds of the parents present at a public meeting called in order to determine whether conversion should occur.

The focus of the charter demonstration program is to be on at-risk youth. Charter schools may contract with the local school board for certain services, such as transportation, and are to receive funding from the district in which they are located.

Alaska's new charter law provides for the establishment of 30 charter schools. Any individual or group may apply. Petitions must gain approval of both the local school board and the State Board of Education, and the schools approved must be geographically balanced across the state in a manner prescribed by the law.

Charter schools are to be operated in and as part of the local school district, but are exempted by law from some of its policies (i.e. textbook, program, curriculum, and scheduling requirements). Further exemptions may be allowed if they are specified in the contract. The method of funding is identical to that used for other public schools -- the local board develops an annual program budget "which shall be not less than the amount generated by the students enrolled in the charter school less administrative costs retained by the local school district".

State education officials are currently in the process of interpreting the law and writing regulations.

Recently enacted charter legislation in **Wyoming** allows an unlimited number of charter schools to be established by petition of district school teachers and parents to the local board. Following public hearings, the local board has 60 days in which to approve or

deny the charter application. This decision must be based on whether the petition meets certain signature requirements and a number of other factors specified by the law. For example, charters may not be granted to private schools, must be non-sectarian, and must be in compliance with state imposed minimum school standards and teacher certification requirements.

All charter schools, whether converted public schools or newly created, are to be established within a school district, and with the exceptions noted above, will operate independent of regulations and laws pertaining to public schools. Funding and transportation for charter schools will be handled in the same manner as that of regular public schools.

There are no provisions for appeal to the state if a petition is denied. In fact, the state's role in the charter process is quite minimal. The state superintendent has responsibility for distributing information on the charter process, and along with the state board of education, must review the effectiveness of the charter approach and report findings and recommendations to the legislature no later than January 1998.

Arkansas' law provides existing local schools the opportunity to become free of most state and local regulations by converting to charter status. The charter contract must specifically state the exemptions the school is seeking.

To become a charter school the local school must first have approval of the local board, the teachers union or association representing the majority of the schools teachers, two-thirds of its certified employees, and two-thirds of parents present at a charter school meeting. The local board then forwards all requests to the state board for review and so long as a charter does not result in segregation and contains the information required (i.e., plan for improving student performance, measurable objectives, etc.), the state board is directed to approve it. The state board, however, may not approve a request that has already been denied at the local level. Schools may resubmit a petition if the original is incomplete or deficient.

The state board is also responsible for developing rules and regulations for charter schools and for renewing charters after the initial three year period. Reports on the status of the charter program are expected biennially.

Rhode Island's charter school law, passed in May 1995, allows for the establishment of "public schools that operate independently but within the existing school district structure...". Charters may be granted to existing public schools, groups of public school personnel, or public school districts. In order to convert an existing school at least a majority of the students' parents and two-thirds of the certified teachers at the school must

approve the charter. To establish a newly created charter school, the application must demonstrate that a sufficient number of teachers and parents of students intend to participate in and actually transfer to the charter school. Applications must also identify the specific waivers sought and explain the reasons for seeking them.

Applications are submitted to the Commissioner of Elementary and Secondary Education and the school committee of the district. Upon review, and after providing an opportunity for public comment, the Commissioner must make a recommendation to grant or not grant the charter. The petition is then forwarded to the State Board of Regents for a final decision.

The number of charter schools allowed before July, 1996 is ten, serving no more than 2% of the state's school age population. An additional ten, serving no more than 10% of students, will be allowed by July, 1997. The law specifies that at least ten of the twenty slots will be reserved for schools emphasizing the educational needs of at-risk youth.

An interesting aspect of Rhode Island's legislation is the extent to which unions have been granted a role in the charter process. For example, after transfer to a charter school teachers are permitted to remain members of the previous school's collective bargaining unit. Furthermore, when an application is submitted to the commissioner or school committee, a copy must be provided to the collective bargaining agent of the teachers in the district. If the union objects to the charter, the school committee, the commissioner, and the Board of Regents must consider and respond before making any recommendation or final decision.

OTHER CHARTER LAWS: IMPLEMENTATION AND ACTIVITY

Given the variety of charter laws, it is not surprising that each state's experience with charter law implementation and the pace and volume of activity is unique. Some states, especially those with strong laws, have granted charters and established new schools with relative ease, while others have barely gotten their charter program off the ground. The following describes the status of charter schools in states with older charter laws.

Minnesota enacted the first charter school law in 1991. Initially only eight charter schools were allowed, but now up to forty are permitted. Seventeen schools have been approved and 13 are in operation. A number of revisions were made to the law in the past legislative session, including expanding the number of entities with charter granting authority (public colleges and universities may grant up to three charters), giving charter schools the option of providing transportation, and providing a $50,000 appropriation to the State Board to evaluate the effectiveness of the charter program.

California's charter school legislation, enacted in 1992, allows up to 100 charter schools, not to exceed ten per district. Eighty-eight charter applications have been approved and two are pending. Sixty-seven were in operation as of January 1995. A majority of these were existing campuses that converted to charter status. Existing schools and newly approved charters continue to exhibit a great deal of diversity in terms of educational and programmatic focus. No significant changes to the charter law emerged from the latest legislative session, but state education officials hope to see an increase in the number of schools opening as money for start up activities becomes available under the federal government's charter school grant program.

Of the five existing public schools allowed to convert to charter status under **New Mexico's** law, four are in operation. Interest in filling the fifth slot has been expressed by a number of groups, but no applications have been submitted. Despite legislative proposals designed to grant schools greater autonomy and expand the number of charter schools permitted, the most recent session did not yield any significant charter-related legislation.

Colorado's legislation permits up to 50 charter schools. Fourteen are in operation, and eleven more are expected to go on line in the next school year. No major changes have been made in the past year.

Wisconsin's charter statute allows 10 districts to convert to charter status. Within each district there can be only two charter schools. While all the slots at the district level have been filled, only 3 schools are actually in operation. According to a state educational official, this low number is probably due to the financial problems many districts are experiencing. Legislation lifting the cap on the number of districts allowed a charter designation was passed in the last session and is currently awaiting the Governor's signature.

Georgia, which allows an unlimited number of charter schools, currently has three schools approved and scheduled to begin operations this school year. A number of amendments, intended to remedy the difficulties faced by schools wishing to convert, were made to the law in the last legislative session. These include increasing the length of the charter term to five years, modifying the charter process to require that a majority (instead of over two-thirds) of parents and faculty support the charter proposal, and providing charter school planning grants of $5,000.

The 25 charter schools allowed in **Massachussets** are not authorized to begin operation until fall 1995. Twenty-one schools have been approved so far, and selection of the remaining four will be announced in March 1996. While the original charter law has remained intact, the outcome of a recent suit challenging its constitutionality may force

some modifications. The lawsuit claims that because municipalities do not play a role in approving charters, the charter schools are in fact private and ineligible for public aid.

Michigan's legislation gives public state universities, intermediate school districts, community colleges, and most local school districts authority to grant charters within their respective boundaries. There is no overall cap on the number of "public school academies" allowed, but universities are limited to 75 and community colleges may not authorize more than one. Anyone may apply for a charter. At this time, there are 7 schools in operation and between 20 to 30 will be up and running by fall 1995.

The relatively new charter law in **Arizona** (1994) allows the state board of education and the state board for charter schools to sponsor 25 charters each, and allows districts unlimited sponsorship. So far, 47 schools have been approved--24 by the state board for charter schools, 21 by the state board of education, and 2 by school districts. All but four are expected to be operational this fall, and given the higher rate of state sponsorship, most of these will be independent of existing campuses. At this time, efforts to improve the charter program are focused on procedural modifications, such as fine tuning the application process and documents.

Kansas' charter legislation, also enacted in 1994, allows 15 charter schools. One application has been submitted but was rejected due to incomplete information. No other applications have been received.

Hawaii's law permits up to 25 public schools to convert to "student-centered" schools. One school has declared itself a student-centered school and expects to be operational by fall 1995.

SUMMARY OF STATE CHARTER LEGISLATION

State	Minnesota	California	Colorado	Georgia	Massachusetts	New Mexico	Wisconsin	Michigan
Year Enacted	1991	1992	1993	1993	1993	1993	1993	1994
Grantor	local districts and public secondary institutions with appeal to state	local districts with appeal to county districts	local districts with appeal to state	local districts, with state approval	state	state	local districts	state universities, community colleges, local and intermediate school districts
Organizers	licensed teachers	any individual or group	any individual or group	any public school faculty staff	any individual or group	existing school personnel and parents	any individual or the local school board	any individual or group
Number Allowable	40	100, no more than 10 per district	50	unlimited but only existing campuses	25, no earlier than 1995	5	10 districts, 2 schools per district	unlimited (school districts) 75 (universities) 1 (community colleges)
Number Approved	17	88	11	3	21	4	10 districts	between 20-30 (exact # not available)
Number in Operation	13	67**	14	0	0 (pending until 1995 by statute)	4	3	7
Requires Teacher Approval	Yes	Yes	Yes	Yes	No	Yes	If by petition	No
Transportation	provided by either the charter school or the district	determined by each district	determined by each district	provided by the local districts	districts must provide within their boundaries	same as existing campuses	determined by each district	negotiated separately for each charter
Facilities	no provision	no provision	no provision	all are existing campuses	charters are not eligible for state facility funds	all are existing campuses	no provision	no provision

** Number in operation as of January 1995. More current figure not available.

State	Arizona	Kansas	Hawaii	Alaska	Arkansas	Louisiana	Texas	Wyoming	Rhode Island
Year Enacted	1994	1994	1994	1995	1995	1995	1995	1994	1995
Grantor	local districts, board of education, or state board for charter schools	local districts with state review	state board of education	local school boards and state board of education	local school boards and state board of education	local school systems upon state board approval	"home rule " s.d.'s or local board for **program or campus** charters; SBOE for **open enrollment** charters	local school board	Brd. of Regents upon rec. of commissioner and local committee
Organizers	any individual or group	any individual or group	school/community based management councils	any individual or group	local schools	local school board or local groups	**program/ campus**: parents & teachers; **open enrollment:** college /univ., tax exempt orgs., gov't entity	anyone, with teacher/ parent approval	parents and teachers
Number Allowable	unlimited (district), 50 (state)	15, two per district	25	30	unlimited	8 sites (school systems)	**program/campus**: unlimited; **open enroll.**: 20	unlimited	20
Number Approved	47	0	1	0	0	0	0	0	0
Number in Operation	0	0	0	0	0	0	0	0	0
Requires Teacher Approval	No	No	Yes	No	Yes	Yes, if existing school conversion	**program/campus**: requires approval of majority of parents and majority of teachers ; **open enroll.**: No	Yes, 10% of district teachers or 50% of teachers at one school	Yes
Transportation	charter school must provide for special ed. and econ. dis.	district must provide for economically disadvantaged	provided by school system	provided by school district	no provision	negotiated - may be either charter school or district operated	**program/campus**: same as district **open enroll.**: charter school must provide	determined by each district	may be negotiated with school district
Facilities	no provision	no provision	all are existing campuses	all are existing campuses	all are exiting campuses	no provision	**program/campus**: all are existing campuses **open enroll.**: either separate facilities or those of a school district	no provision	either existing or new schools

Information on other states was obtained from telephone interviews conducted during June, July, and August 1995 with the following individuals:

Jose Afonso
Massachusetts Executive Office of Education

Bill Allen
Minnesota Department of Education

Ben Barret
Kansas State Senate Education Committee

Garry Cass
Michigan Department of Education

Marge Gaza
Hawaii Department of Education

Katherine Kilroy
Arizona Department of Education

Richard LaPan
New Mexico Department of Education

Bill Miller
Louisiana Department of Education

David Nelson
Wyoming Legislative Service Office

David Patterson
California Department of Education

Sheila Peterson
Alaska Department of Education

John Rhodes
Georgia Department of Education

Tom Stefonek
Wisconsin Department of Public Instruction

Bill Windler
Colorado Department of Education

* Education officials from Arkansas and Rhode Island could not be reached for comment.